

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 258 be amended to read as follows:

- 1 Page 3, after line 38, begin a new paragraph and insert:
2 "SECTION 4. [EFFECTIVE JULY 1, 2008] (a) **Notwithstanding**
3 **P.L.291-2001, SECTION 228(b), this SECTION applies to a person**
4 **if:**
5 (1) **the person was found to be and sentenced as a habitual**
6 **offender under IC 35-50-2-8;**
7 (2) **the felony offense for which the person was sentenced as a**
8 **habitual offender under IC 35-50-2-8 was:**
9 (A) **an offense under IC 16-42-19 or IC 35-48-4; and**
10 (B) **not listed in IC 35-50-2-2(b)(4) (as in effect July 1,**
11 **2001); and**
12 (3) **at the time the person was sentenced as a habitual offender**
13 **under IC 35-50-2-8, the total number of unrelated convictions**
14 **the person had for:**
15 (A) **dealing in or selling a legend drug under**
16 **IC 16-42-19-27;**
17 (B) **dealing in cocaine or a narcotic drug (IC 35-48-4-1);**
18 (C) **dealing in a schedule I, II, or III controlled substance**
19 **(IC 35-48-4-2);**
20 (D) **dealing in a schedule IV controlled substance**
21 **(IC 35-48-4-3); and**
22 (E) **dealing in a schedule V controlled substance**
23 **(IC 35-48-4-4);**
24 **did not exceed one (1).**

1 (b) A person described in subsection (a) may petition the
2 sentencing court to have the person's sentence reviewed. Upon
3 receipt of a petition submitted under this subsection, if the court
4 finds that the person who submitted the petition is a person
5 described in subsection (a), the court may vacate any additional
6 fixed term of imprisonment added to the person's sentence under
7 IC 35-50-2-8.

8 (c) If, under subsection (b), a court vacates an additional fixed
9 term of imprisonment added to a person's sentence, the court shall
10 order the department of correction to determine the person's new
11 expected release date. If the department determines that the
12 person's release date occurred before the date the court vacated
13 the person's sentence under subsection (b), the department shall
14 release the person.

15 (d) This SECTION does not create a cause of action against the
16 state or an employee of the state. A person may not bring an action
17 against the state or an employee of the state if the department of
18 correction determines under subsection (c) that the person's
19 release date occurred before the date the court vacated the
20 person's sentence under subsection (b).".

(Reference is to ESB 258 as printed February 22, 2008.)

Representative Smith V